

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

2014 GS HOLDINGS OPERATING, LLC	§	
and 2014 GS HOLDINGS, LLC	§	
	§	
v.	§	CASE NO. 6:15-cv-00247
	§	
ESSEX INSURANCE COMPANY	§	

COMPLAINT AND JURY DEMAND

2014 GS Holdings Operating, LLC ("Operating") and 2014 GS Holdings, LLC ("Holdings") complain of Essex Insurance Company ("Essex") and demands a trial by jury.

1. This is a civil action seeking damages and a declaratory judgment.

Jurisdiction and Venue

2. This Court has jurisdiction under 28 U.S.C. § 1332.
3. Operating is a Texas limited liability company with its registered agent in Dallas County, Texas.
4. Holdings is a Texas limited liability company with its registered agent in Dallas County, Texas.
5. At the times pertinent to this lawsuit, Holdings owned an oil lease on certain real property known as the "Bender" Oil Lease (RRC Lease Id. #16357) located in Milam County, Texas.
6. At the times pertinent to this lawsuit, Operating (Texas RR Id. # 953543), was the operator of the "Bender" Oil Lease.
7. Essex is a Delaware insurance company with its offices at 4521 Highwoods

Parkway, Glen Allen, VA, 23060. By the terms of the insurance policy that is the subject
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of this lawsuit, Essex is to be served upon Secretary, Legal Department, Markel Midwest, Ten Parkway North, Deerfield, Illinois 60015.

8. Venue is proper in this District as a substantial part of the events or omissions giving rise to the claims occurred in this District, 28 U.S.C. § 1391.

Facts

9. Effective for the period August 7, 2014 to August 7, 2015, Essex issued a Commercial General Liability policy to plaintiffs, Policy Number 14EGLMS80154, with an Excess Liability Policy, Policy Number: 14EFXMS80646. Essex issued an endorsement related to the policies entitled "Sudden, Accidental and Abrupt Pollution Coverage - Oil and Gas Industry - Exception For Lease Operators."

10. Plaintiffs made all payments due under the insurance policies and fulfill all their obligations under the insurance policies.

11. The insurance policies covered Plaintiffs' interest in the "Bender" Oil Lease.

12. By their report dated May 9, 2015, Plaintiffs reported a loss to Essex that was covered by the insurance policy.

13. On January 28-29, 2015, Plaintiffs suffered a loss on the Bender Oil Lease described in the notice sent to Essex: "On Jan 28, early morning hours someone went in packed oil loan line off oil storage tank. Dumping oil - approx. 180 BBLs crude oil."

14. On April 3, 2015, Plaintiffs suffered a loss on the Bender Oil Lease described in the notice set to Essex: "4-3-2015 - someone went over locked gate went to Bender well 18 - opened 1 inch Blender valve and turned well on - pumping approx. 20

BBL - mix of crude/salt water - mixture ran approx. 500' to stock tank, pipe racks/pumping units have been stolen. About 800 BBL total of oil."

15. In describing the actions taken after the incidents, plaintiffs advised "Clean up actions were started in both cases - RRC (Texas Railroad Commission) was called - Sheriff's Dept notified, Rockdale Police have been notified of thefts/act of vandalism on wells in town, I have tried to get Texas Rangers involved."

16. By letter dated June 8, 2015, Essex, through Markel Service Incorporated as the claims service manager for Essex, denied coverage of the incidents because Essex did not receive notice of the incidents in a timely manner, and because the incidents were not covered by the policy.

17. On July 29, 2015, Dr. Vernon Bender filed suit against plaintiffs in the 20th Judicial District Court, Milam County, Texas, *Dr. Vernon Bender v. 2014 GS Holdings, LLC v. 2014 GS Holdings Operating, LLC*, Cause No. CV37,014. Bender is the owner of the property subject to the plaintiffs' Bender Oil Lease.

18. Bender alleges in his lawsuit that:

12. In February of 2015 Defendants operations resulted in the illegal release of approximately 140 barrels of produced crude oil and saltwater on the subject property. The crude Oil and Saltwater contaminated the surface of the subject property.

13. On or about April 3rd, 2015 as Defendants operations again resulted in the illegal release of a large quantity of produced crude oil and saltwater on the subject property. The crude Oil and Saltwater contaminated the surface of the subject property and the pond Plaintiff used to water his cattle.

19. Bender seeks to recover damages against plaintiffs which they believe total in excess of \$75,000 and include damages for (a) loss of use of all or significant portion of Bender's property, (b) damages for diminution in value of Bender's property, (c)

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contamination of soil and pond, (d) damages for loss of at least three cows and four calves that ingested oil, (e) loss of artificially inseminated pregnancies from registered Angus cattle, (f) cow and bull infertility and health decline, (g) broken leg of one cow, (h) loss of grazing land, (i) damages to growing crops, (j) loss of hay harvest and other items.

20. Essex incorrectly and improperly denied coverage to plaintiffs for the losses suffered as a result of the January and April 2015 incidents. The insurance policies provide coverage.

21. All conditions precedent to plaintiffs' recovery of relief under the insurance policies have been satisfied.

22. Essex's actions breached its contract of insurance with the plaintiffs.

23. Plaintiffs seek damages for Essex's breaches of contract equal to the sums of money they have and will have to pay to (a) defend the Bender lawsuit, and (b) settle the Bender lawsuit.

Declaratory Judgment

24. Plaintiffs seek a declaratory judgment establishing their rights under the insurance policies, including their right to recovery and reimbursement under the insurance policies.

Attorney's Fees

25. Operating and Holdings have retained the undersigned to represent them in this action and has agreed to pay a reasonable attorney's fees. Plaintiffs sue for such fees.

Therefore, Operating and Holdings demands against Essex Insurance Company for a declaratory judgment and damages, plus attorney's fees, interest as allowed by law and costs.

Respectfully submitted,

Bennett, Weston, LaJone & Turner, P.C.

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